

City of Cincinnati

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An Ordinance No. 406 - 2007

MODIFYING the provisions of Title XI, Cincinnati Building Code, of the Cincinnati Municipal Code by enacting a new Chapter 1106, General and Specialty Contractors.

WHEREAS, the City of Cincinnati has an interest in protecting the health, safety, property and welfare of the consumer, general public and the owners and occupants of buildings; and

WHEREAS, general and specialty contractors are not specifically regulated by the City of Cincinnati; and

WHEREAS, Ohio Revised Code Section 715.27 authorizes municipalities to require registration by general and specialty contractors; and

WHEREAS, the City of Cincinnati has an interest in protecting the rights of all general and specialty contractors by ensuring that all such contractors are bonded, insured and current with their income taxes; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Title XI, Cincinnati Building Code (CBC), of the Cincinnati Municipal Code is hereby modified by enacting a new Chapter 1106, General and Specialty Contractors, which is hereby ordained to read as follows:

Chapter 1106 GENERAL AND SPECIALTY CONTRACTORS

Sec. 1106-1.	Definitions.
Sec. 1106-1-C.	Cincinnati Building Code (CBC).
Sec. 1106-1-O.	Ohio Construction Industry Licensing Board (OCILB)
	Licensed Specialty Contractors.
Sec. 1106-1-R.	Registered Building Construction Contractor.
Sec. 1106-1-R1.	Registered Home Improvement Contractor.
Sec. 1106-3.	General.
Sec. 1106-5.	OCILB Licensed Specialty Contractor Registration Required.
Sec. 1106-7.	OCILB Licensed Specialty contractor Registration Requirements.
Sec. 1106-9.	Building Construction Contractor Registration Required.
Sec. 1106-11.	Building Construction Contractor Registration Requirements.

Sec. 1106-13.	Home Improvement Contractor Registration Required.
Sec. 1106-15.	Home Improvement Contractor Registration Requirements.
Sec. 1106-17.	Permits.
Sec. 1106-19.	Certificate of Occupancy.
Sec. 1106-21.	Rules and Regulations.
Sec. 1106-23.	Registration Fees.
Sec. 1106-25.	Expiration and Renewal.
Sec. 1106-27.	Suspension and Revocation of Registration.
Sec. 1106-29.	Registration Rights.
Sec. 1106-31.	Appeal.
Sec. 1106-33.	Non-Warranty.
Sec. 1106-35.	State and Federal Law.
Sec. 1106-37.	Homeowner's Exception.
Sec. 1106-99.	Penalties.

Sec. 1106-1. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Sec. 1106-1-C. Cincinnati Building Code (CBC).

For the purposes of this chapter, the CBC shall be interpreted to include the Residential Code of Ohio in its entirety.

Sec. 1106-1-O. Ohio Construction Industry Licensing Board (OCILB) Licensed Specialty Contractors.

"Ohio Construction Industry Licensing Board (OCILB) Licensed Specialty Contractors" shall mean:

For the purposes of this chapter, any person licensed as defined by Chapter 4740 and Section 715.27(F) of the Ohio Revised Code and engaging in work on projects as a/an:

- (1) Electrical contractor;
- (2) Heating, ventilating and air-conditioning (HVAC) contractor;
- (3) Hydronics (steam and hot water) contractor;
- (4) Plumbing contractor;
- (5) Refrigeration contractor.

Sec. 1106-1-R. Registered Building Construction Contractor.

“Registered Building Construction Contractor” shall mean:

- (a) Any person that functions either on the behalf of, or as an agent for, an owner of a building, structure or site for the purpose of obtaining building permits for the structural addition, prefabrication, alteration, repair, demolition and/or new construction of any appurtenance, building, structure or site, or a portion thereof, governed by the Ohio Building Code (OBC) and/or the new construction of one (1), two (2) and three (3) family dwellings and those new appurtenances directly associated therewith as regulated by the CBC.
- (b) Any person that offers to provide and/or provides the means, processes and procedures for the structural addition, alteration, repair and/or new construction of any appurtenance, building, structure or site, or a portion thereof, governed by the OBC. In addition, such registration shall also include the new construction of one (1), two (2) and three (3) family dwellings and those new appurtenances directly associated therewith as regulated by the CBC.
- (c) Any person or entity, commonly referred to as a subcontractor, that assumes, by secondary contract, some or all of the obligations of a general contractor, homebuilder or primary engineer, for the structural addition, alteration, repair, demolition and/or new construction of any appurtenance, building, structure or site, or a portion thereof, governed by the OBC and/or the new construction of one (1), two (2) and three (3) family dwellings and those new appurtenances directly associated therewith as regulated by the CBC. In addition, such registration shall also include a person or entity engaged in the aforementioned activities, other than an OCILB licensed specialty contractor, that enters into a contractual agreement with the general contractor, homebuilder or primary engineer for the performance of any portion of the aforementioned activities.

Sec. 1106-1-R1. Registered Home Improvement Contractor.

“Registered Home Improvement Contractor” shall mean:

Any person or entity directly engaged in any work by the OBC or CBC involving the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to any land or building, or that portion thereof which is used or designed to be used as a private residence or dwelling place for one (1), two (2), and three (3) family dwellings and buildings, structures or sites associated therewith governed by the OBC or the CBC; and shall include, but not be restricted to, the construction, replacement, or improvement of driveways, swimming pools,

porches, garages, fallout shelters and other improvements to structures or upon land which is adjacent to a dwelling house. "Home improvement contractor" shall not include any person, business or company engaged in (1) the construction of a new home building or work done by a contractor in compliance with a guarantee of completion of a new building project, or (2) the sale of goods or materials by a seller who neither arranges to perform nor performs directly or indirectly any work or labor in connection with the installation of or application of the goods or materials.

Sec. 1106-3. General.

- (a) The purpose of this chapter is to provide minimum qualification standards for the herein defined areas of construction-related contracting within the corporate limits by requiring that such specific areas of contracting herein regulated will be performed under the supervision, direction and control of registered contractors for the protection of life, limb, health, property and for the safety and welfare of the general public and the owners and occupants of all buildings and structures.
- (b) The provisions of this chapter for contractor registration apply to the permitted construction, addition, prefabrication, alteration, repair, demolition, maintenance, new construction, maintenance, repair, replacement, remodeling, alteration, conversion, modernization and improvement of all types of any appurtenance, building, structure or site, or a portion thereof or associated therewith, including the building service equipment associated therewith, that is either governed or regulated by the Cincinnati Building Code (CBC) or the Ohio Building Code (OBC).
- (c) For the purpose of this chapter, an architect, professional engineer, or any other such person who is required by Chapter 4703 or Chapter 4733 of the Ohio Revised Code to attain standards of competency or experience as a prerequisite to engaging in such profession is considered a professional service provider. When such an individual is acting exclusively within the scope of the profession for which they are either licensed or registered pursuant to such law, they are exempted from registration as a contractor.

Sec. 1106-5. OCILB Licensed Specialty Contractor Registration Required.

No person or entity shall undertake or perform work requiring a permit of any Ohio Construction Industry Licensing Board (OCILB) licensed specialty contractor, as defined by Chapter 4740 and Section 715.27(F) of the Ohio Revised Code, within the corporate limits without first obtaining an OCILB licensed specialty contractor registration from the director of the department of buildings and inspections. Such work within the corporation limits shall only be transacted by an OCILB licensed specialty contractor duly registered by the department of

buildings and inspections or as otherwise permitted by local, state or federal law or regulation.

In addition, it shall be unlawful for any person other than an owner, officer, partner, or employee of an OCILB licensed specialty contractor, to represent or advertise him or herself, for or without compensation, either publicly or privately, as being ready, willing or able to contract to undertake or offer to undertake, to plan for, lay out, supervise, install and/or make additions, alterations or repairs in or for the building service equipment installation of any electrical, plumbing, heating, ventilating and air conditioning (HVAC), refrigeration or hydronics system in any building or structure governed by the CBC, unless such work will be performed under the direction, supervision and authority of a duly registered OCILB licensed specialty contractor as required by this section.

No OCILB licensed specialty contractor registration shall be required of any person when acting in the particular capacity or particular type of transaction set forth in this subsection as follows:

- (1) A tradesperson who performs labor or services for a department-registered OCILB specialty contractor for wages, salary, or compensation of any type, manner or form provided such person is a direct employee or a legally leased tradesperson under the direct supervision of the registered OCILB licensed specialty contractor;
- (2) Any retail clerk, clerical, administrative, or other employee of a department-registered OCILB specialty contractor, as to a transaction on the premises of the contractor.

Sec. 1106-7. OCILB Licensed Specialty Contractor Registration Requirements.

Upon the payment of the nonrefundable fee and submission of a complete application for an OCILB licensed specialty contractor registration in accordance with Section 715.27 of the Ohio Revised Code, the department of buildings and inspections shall immediately issue to such applicant an OCILB licensed specialty contractor registration. The expiration of an OCILB licensed specialty contractor registration shall coincide with the specialty license issued by the OCILB.

The continued validity or renewal of an OCILB licensed specialty contractor registration is dependent upon the continued maintenance of all the following:

- (1) A current, valid OCILB specialty contractor license and its required liability insurance coverage;
- (2) The required city bond;

- (3) State of Ohio workers compensation coverage; and
- (4) An account in good standing with the city income tax division.

Sec. 1106-9. Building Construction Contractor Registration Required.

No person or entity shall undertake or perform work requiring a permit of a registered building construction contractor, as defined in this chapter, without first obtaining a building construction contractor registration from the director of buildings and inspections. Such work within the corporation limits shall only be transacted by a building construction contractor duly registered or as otherwise permitted by local, state or federal law or regulation.

Sec. 1106-11. Building Construction Contractor Registration Requirements.

Any person or entity, before engaging in work requiring a permit as a registered building construction contractor, shall submit an application for such registration to the director of the department of buildings and inspections on a form prescribed therefor, pay the nonrefundable fee and comply with all registration requirements required by this chapter. The department of buildings and inspections shall review and process the application within a reasonable time and in accordance with the rules, regulations and procedures established by the director.

The continued validity or renewal of a building construction contractor registration is dependent upon the continued maintenance of all the following:

- (1) Proof of current and valid liability insurance coverage;
- (2) The required city bond;
- (3) State of Ohio workers compensation coverage; and
- (4) An account in good standing with the city income tax division.

Sec. 1106-13. Home Improvement Contractor Registration Required.

No person or entity shall undertake or perform work requiring a permit of a registered home improvement contractor, as defined in this chapter, without first obtaining a home improvement contractor registration from the director of the department of buildings and inspections. Such work within the corporation limits shall only be transacted by a home improvement contractor duly registered or as otherwise permitted by local, state or federal law or regulation.

Sec. 1106-15. Home Improvement Contractor Registration Requirements.

Any person or entity, before engaging in work requiring a permit as a registered home improvement contractor, shall submit an application for such registration to the director of the department of buildings and inspections on a form prescribed therefor, pay the nonrefundable fee and comply with all registration requirements required by this chapter. The department of buildings and inspections shall review and process the application within a reasonable time period and in accordance with the rules, regulations and procedures established by the director.

The continued validity or renewal of a home improvement contractor registration is dependent upon the continued maintenance of all the following:

- (1) Proof of current and valid liability insurance coverage;
- (2) The required city bond;
- (3) State of Ohio workers compensation coverage; and
- (4) An account in good standing with the city income tax division.

Sec. 1106-17. Permits.

A permit required by the provisions of the OBC or the CBC shall be issued only to an OCILB licensed specialty contractor, building construction contractor or home improvement contractor holding a valid registration as required herein, or to a homeowner exempted from registration under this chapter and that permit may be issued to an OCILB licensed specialty contractor, building construction contractor or home improvement contractor only for work in the areas for which the contractor holds a valid registration. A homeowner exempted from registration under this chapter shall provide with the permit application the name of the general contractor the homeowner intends to use on the project for which a permit is being sought. An OCILB licensed specialty contractor, building construction contractor or home improvement contractor shall provide with the permit application the names of the known subcontractors, if any, they plan to utilize on the project for which they seek the permit.

Sec. 1106-19. Certificate of Occupancy.

A general contractor shall provide with the request for Certificate of Occupancy a list of all subcontractors used on the project for which the Certificate of Occupancy is being sought.

Sec. 1106-21. Rules and Regulations.

The director of buildings and inspections is authorized to establish rules, regulations and procedures consistent with the intent of this chapter, and to perform such duties as are necessary and appropriate to the administration of this chapter. Such rules and regulations shall include, but not be limited to, registration and application requirements, exemptions, application forms, contractor classifications and descriptions, late fees, assignment requirements, revocation, suspension or expiration of registration, insurance and bond requirements and chapter enforcement. Said rules, regulations and procedures shall not be inconsistent with the provisions of this chapter, the Cincinnati Municipal Code, or state and federal laws and regulations.

Sec. 1106-23. Registration Fees.

The initial registration and annual renewal fee for all registrations required under this chapter shall be \$125 payable to the department of buildings and inspections as provided by this chapter and the rules and regulations promulgated by the director of buildings and inspections.

Sec. 1106-25. Expiration and Renewal.

An applicant may apply for a registration for a one, two or three-year period. Registration shall be renewable during the thirty-day period immediately preceding the expiration date.

Sec. 1106-27. Suspension and Revocation of Registration.

Any registration as provided for in this chapter may be revoked, suspended or refused by the director for good cause shown including, but not limited to the following:

- (1) Misrepresentation or false statement made in obtaining a registration;
- (2) Any violation of a provision of this chapter or of the rules and regulations promulgated hereunder, or failure to comply with any provision of this chapter or of the rules and regulations promulgated hereunder or lawful order of the director;
- (3) Any failure to comply with the provisions of this chapter, the laws and regulations of the State of Ohio, or the ordinances of the City of Cincinnati, the CBC or failure to provide the level of services set forth in the application and by the director of buildings and inspections;

- (4) The registration holder used its registration to obtain a permit for another;
- (5) The registration holder failed to secure permits, inspections and approvals required by the OBC or the CBC;
- (6) The registration holder repeatedly installed work in an unworkmanlike manner or not in conformity with permits issued;
- (7) The holder repeatedly has been notified of violations of the OBC or the CBC and, has failed or refused to promptly correct any violation or part of it;
- (8) There have been repeated incidents of returned checks for insufficient funds or stop payment without just cause.

If the director of buildings and inspections determines that probable grounds exist for denial, suspension, or revocation of a registration under this chapter, the director shall notify the applicant or registered party or entity (respondent) in writing of the denial, suspension or revocation of the registration, including the findings and conclusions therefor, by personal delivery, or by certified mail. The notification shall be directed to the most current business address on file with the department of buildings and inspections.

Sec. 1106-29. Registration Rights.

No person or entity holding a registration as provided herein shall loan or extend the right to privileges given thereunder to any person other than the registrant or persons, not including subcontractors, working under the registrant's direction, supervision and authority.

Sec. 1106-31. Appeal.

Any denial, suspension or revocation of any registration under this chapter may be appealed to the city manager or person designated by the city manager, who may reverse, affirm or modify the decision of the director of buildings and inspections. Monetary and ineligibility penalties for violation of this chapter may also be appealed hereunder. The appeal shall be confined to a review of the written record, including written statements of the appellant and such additional information as may be permitted. The review on appeal shall be limited to consideration of the standards and requirements set forth in this chapter. The city manager or the designee may adopt the findings and conclusions issued by the director of buildings and inspections or make such other findings and conclusions as appropriate.

Appeals shall be made to the city manager within 10 days of receipt of the decision of the director of buildings and inspections in writing setting forth the decision appealed from and the reasons why the appellant believes the decision is erroneous.

Sec. 1106-33. Non-Warranty.

Responsibility for acceptable quantity and quality of work performed and for materials used by any registered contractor rests with the individual contractor. The city of Cincinnati makes no warranty relative thereto.

Sec. 1106-35. State and Federal Law.

The provisions of this chapter shall be enforced unless otherwise provided, authorized or prohibited by state or federal law or regulation.

Sec. 1106-37. Homeowner's Exception.

No provision herein shall be interpreted to require that the owner of a one (1), two (2) or three (3) family dwelling shall be registered under this chapter in order to personally perform work upon the premises, provided the same will be occupied by said owner for at least one year. All work done by an owner shall be in conformity with the provisions of the OBC and CBC and rules and regulations promulgated under it, and no work shall be done unless owner is in compliance with all permits, inspections and approvals required by the OBC and CBC.

Sec. 1106-99. Penalties.

Whoever violates any provision of this chapter of the Cincinnati Municipal Code shall be fined not more than \$1,000 and shall be ineligible to be registered under this chapter for a period of one year from the date of the violation.

Section 2. That if a section of this ordinance is declared invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in effect.

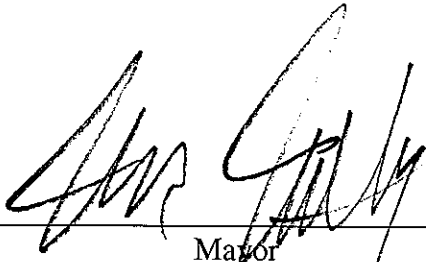
Section 3. That new Chapter 1106 of the Cincinnati Municipal Code shall expire twenty-four (24) months after passage of this ordinance.

Section 4. That the annual registration fee, set forth in Section 1106-23, will not be adjusted during this twenty-four (24) month time period.

Section 5. That Council shall have the option to extend Chapter 1106, pending an evaluation of data provided by the City Administration.

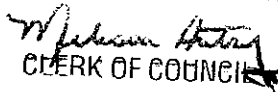
Section 6. That this ordinance shall take effect and be in force January 1, 2008 and remain in effect thereafter for a period of twenty-four (24) months.

Passed: November 15, 2007



Mayor

Attest: Melissa Atkins
Clerk

I HEREBY CERTIFY THAT ORDINANCE NO 0406-2007
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 11-27-2007

CLERK OF COUNCIL